



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 6th day of September, 2005

Emergency exemption under 49 U.S.C. §40109 from the
provisions of 49 U.S.C. §41101

Docket OST-2005-22395

ORDER GRANTING EMERGENCY EXEMPTION

Summary

By this order, we grant carriers licensed under 14 CFR Part 125 emergency exemption authority from the provisions of 14 U.S.C. §41101. This exemption will allow those carriers to provide assistance in the carriage of freight and people affected by Hurricane Katrina, and the transport into the affected areas of relief personnel and supplies.

Background

The destruction caused to the U.S. Gulf Coast by Hurricane Katrina has been unprecedented in its scope. The disaster and its aftermath have imperiled tens of thousands of people. Massive relief efforts are underway to evacuate people from the area and to relocate them to places throughout the country where food and shelter is available, as well as to move in relief personnel and supplies. Air services are critical to this relief process, and we find that the resources of U.S. carriers holding authority under 14 CFR Part 125 may be needed, on an immediate basis, to ensure the success of the evacuation and relief efforts being made by the U.S. Government, through the Federal Emergency Management Agency (FEMA), and by other public and private relief agencies. Carriers licensed under 14 CFR Part 125 may not engage in common carriage operations and, therefore, absent our actions here, they would not be available to satisfy this emergency need.

Decision

In light of the situation along the U.S. Gulf Coast, we recognize that there is an immediate need for airlift to carry freight and people on a massive scale to support evacuation and relief efforts necessitated in the aftermath of Hurricane Katrina. In further recognition that air carriers certificated under 49 U.S.C. §41101 may not be able to meet emergency air transportation needs in a timely fashion, we find it in the public interest here to grant a blanket emergency exemption

under 49 U.S.C. §40109 from the provisions of 49 U.S.C. §41101 and the Department's regulations to carriers licensed under 14 CFR Part 125 to the extent necessary for those carriers to operate emergency flights in air transportation so that they can fully support the Hurricane Katrina relief efforts.¹

We will require that all services being provided for compensation or hire under the authority of this order be provided on reasonable terms. The authority shall be effective immediately, for a period of 30 days from the issue date of this order. We will evaluate the continuing need for this authority, and will, if warranted, extend it at a later date. We will require that each carrier providing air transportation under this order shall notify the Office of Aviation Analysis of any contracts into which it has entered and all flights performed.²

ACCORDINGLY, Acting under authority assigned by the Department in 14 CFR 385.12:

1. We grant a blanket emergency exemption under 49 U.S.C. §40109 from the provisions of 49 U.S.C. §41101 and the Department's regulations to carriers licensed under 14 CFR Part 125 to the extent necessary for them to assist in the evacuation of persons from the affected areas, and for the carriage of personnel and relief supplies in support of the relief effort to address the aftermath of Hurricane Katrina, subject to the conditions contained in footnote 2.
2. The authority granted in ordering paragraph 1 is effective immediately, and will remain in effect for a period of 30 days from the issue date of this order.
3. We shall require that each Part 125 carrier providing air transportation pursuant to this order shall notify the Office of Aviation Analysis of any contracts into which it has entered and all flights performed.
4. All services being provided for compensation or hire under the authority granted in this order shall be provided on reasonable terms.
5. We reserve the right to amend, modify, or revoke this authority at any time, if in the public interest, without notice or hearing.

Persons entitled to petition the Department for review of this order under the provisions of 14 CFR 385.30 shall file their petitions within 10 days of the date of issuance of this order.

¹ Similar authority was granted in the aftermath of hurricanes that occurred during 2004. Order 2004-9-12, issued September 9, 2004.

² Where time does not permit it, this notification need not be provided before the flight operates. In addition, in conducting operations under this authority, a Part 125 air carrier must comply with all applicable requirements concerning security.

The action taken in this order is effective immediately and the filing of a petition for review shall not alter its effectiveness.

By:

RANDALL D. BENNETT
Director
Office of Aviation Analysis

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